

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Chenglong Tong,

C/A No. 0:18-2395-CMC

Petitioner,

v.

Jeh Johnson, Secretary, Department of Homeland Security; Denise Frazier, Director, SC-Greer Field Office, U.S. Citizenship and Immigration Services; Jaclyn Williams, Deputy Director, Greer Field Office, US Citizenship and Immigration Services,

Order

Respondents.

Petitioner filed this Petition for Writ of Mandamus on August 29, 2018, alleging Respondents have “willfully and unreasonably delayed adjudicating Plaintiff’s application” for lawful permanent resident status, and requesting an order compelling Respondents to “perform their duty to adjudicate Plaintiff’s applications.” ECF No. 1. On September 12, 2018, the Magistrate Judge entered an Order authorizing issuance of summons by the Clerk and advising Petitioner of the responsibility for service of process under Fed. R. Civ. P. 4(m). ECF No. 6. Petitioner filed a Return of Summons on September 17, 2018; however, the summons was unsigned by the Clerk of Court. ECF No. 9. The United States Attorney filed a letter sent to Petitioner noting proper service was required and had not been effected as of December 4, 2018. ECF No. 11. On January 9, 2019, the Magistrate Judge entered an Order granting Petitioner a 30-day extension from the date of the Order to serve Respondents with the proper summons signed by the Clerk of Court, along with the Petition. ECF No. 15. Petitioner was specifically warned that failure to perfect service may result in dismissal of the matter. *Id.* No further documents have been filed by Petitioner.

The Magistrate Judge entered a Report and Recommendation on April 19, 2019, recommending the Petition be dismissed without prejudice for failure to serve under Rule 4(m). ECF No. 18. Petitioner was notified of the right to file objections and the deadline for doing so. *Id.* at 3. Petitioner has filed no objections, and the time for doing so has expired.

After considering the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the Report's recommendation that the case be dismissed without prejudice for failure to timely effect service. Accordingly, the court adopts the Report by reference in this Order. This matter is dismissed without prejudice.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
May 9, 2019